

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JIRRON DEMON CURTIS, §
§
Petitioner, §
§
v. § CIVIL ACTION NO. H-06-4042
§
NATHANIEL QUARTERMAN, §
§
Respondent. §

ORDER OF DISMISSAL

Petitioner Jirron Demon Curtis, a state inmate proceeding *pro se*, filed this habeas proceeding under 28 U.S.C. § 2254 challenging his state court conviction. The Court ordered respondent to file an answer or dispositive motion, and ordered petitioner to file a response to the motion for summary judgment within thirty days after service of the motion. (Docket Entry No. 6.) On March 22, 2007, respondent filed a motion for summary judgment, and served a copy on petitioner. (Docket Entry No. 12.) To-date, and despite expiration of a reasonable period of time, petitioner has failed to file, or request additional time to file, a response to the motion for summary judgment.

The Court finds that petitioner has failed to comply with the Court's order to respond to the motion for summary judgment. The Court further finds that petitioner's failure to respond to the motion reflects his lack of due diligence in

prosecuting his case. *See Martinez v. Johnson*, 104 F.3d 769 (5th Cir. 1997) (affirming dismissal for want of prosecution based on inmate's failure to respond to a summary judgment motion as ordered by the district court).

Accordingly, this case is DISMISSED WITHOUT PREJUDICE for want of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Any and all pending motions are DENIED AS MOOT. A certificate of appealability is DENIED.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas on May 3, 2007.



Gray H. Miller
United States District Judge